

REMARKS

This responds to the Office Action dated March 29, 2011.

Claims 1, 14, and 25 are amended, claims 2-5, 24, 26-29, and 42 are canceled, and claims no are added; as a result, claims 1, 6-23, 25, 30-41, and 43-44 are now pending in this application.

The Rejection of Claims Under § 103

Claims 1, 6-10, 13-15, 18-23, 25, 30-34, 39 and 42-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake et al (U.S. 5,832,451; hereinafter “Flake”) in view of Gardener et al (U.S. Publication Number 2002/0178034; hereinafter “Gardener”) and Hollatz et al (U.S. 6,333,980; hereinafter “Hollatz”).

The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence.¹ The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*.² The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness.³ To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art.⁴ “All words in a claim must be considered in judging the patentability of that claim against the prior art.”⁵ As part of establishing a *prima facie* case of obviousness, the Examiner’s analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references.⁶ To facilitate review, this analysis should be made explicit.⁷

¹ See *Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005).

² 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966)

³ *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988).

⁴ *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03.

⁵ *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03.

⁶ *Id.*

⁷ *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)).

Independent claim 1 recites, in part, “upon determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold and determining that a travel related service has become available, routing the task to a travel counselor within the skill group for further processing the task.” Independent claim 28 recites similar language. The Office Action correctly concedes, when discussing previously presented claims 4 and 25, that Flake, Gardner, and Hollatz fail to disclose determining when a travel related service has become available.⁸ To rectify this deficiency the Office Action cites Bull (US 5,995,943) at col. 6, lines 5-15 that states:

In the course of a session, the user may desire information not yet available. This information could be in the form of a product, a service or an event. The user then can establish a persistent (stays around after the user's session is over) complex software text search agent to monitor future information additions to the System and alert the user through a variety of means (facsimile, electronic mail, text page, voice, pager) that the information that was requested is available or in some instances, provide the information directly.

As quoted, Bull does not route tasks upon determining that information requested has become available. Instead, the system of Bull alerts a user. Therefore, Bull, too, fails to teach the recited language of claim 1. Additionally, the Office Action provides no rational of how/why the system of Bull would be modified to instead, route “the task to a travel counselor within the skill group for further processing of the task” as claim 1 recites. Instead the Office Action simply provides a conclusory statement that:

It would have been obvious to one of ordinary skill in the art to include in the travel reservation system of Flake et al in view of Gardener et al and Hollatz et al, the ability to determine that a travel related service has become available as taught by Bull et al since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.⁹

Additionally, the Office Action does not point to any section of Bull that discussed routing. Thus, Applicant submits that rational of combining alleged “old elements” fails as not all of the elements have been disclosed in the cited references. Accordingly, the combination of Flake,

⁸ See Office Action pg. 10, sec. 8.

⁹ Office Action at pg. 10, II.10-17.

Gardner, Hollatz, Bull, and the reasoning set forth in the Office Action fails teach or suggest all of the elements of claims 1 and 25. Therefore, a *prima facie* case of obviousness has not been established. Reconsideration and allowance are respectfully requested for claims 1 and 25 and their dependent claims 6-10, 13, 18-23, 30-34, 39, and 43. The rejection with respect to claim 42 is moot in view of the cancellation of claim 42.

Independent claim 14 recites, in part:

a report generator to:

query one or more database to identify unused travel documents; and

present data regarding the unused travel documents on a report;

The Office Action correctly concedes with respect to previously presented claim 42, that Flake fails to disclose the recited language. To rectify this deficiency, the Office Action references paragraphs 170-174 of Gardener.¹⁰ These portions of Gardener state, amongst other things, a passenger not using the return ticket of a round-trip ticket and the traveler, instead of the passenger seeking a “refund or exchange for the unused portion of the itinerary...the passenger would pay for travel as they go.”¹¹ First, there is no disclosure of querying a database of any type in the cited portions of Gardener. Second, there is no presentation of a report including data regarding unused travel documents. Instead, Gardener broadly mentions a situation in which a passenger does not use a return ticket. Thus, Gardener fails to disclose the language of claim 14. Accordingly, the combination of Flake, Gardner, Hollatz, and the reasoning set forth in the Office Action fails teach or suggest all of the elements of claim 14. Therefore, a *prima facie* case of obviousness has not been established. Reconsideration and allowance are respectfully requested for claim 14 its dependent claims 15 and 18-23.

Claims 4 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 1 above, and further in view of Bull et al (U.S. 5,995,943; hereinafter “Bull”). The rejection with respect to these claims is moot in view of the cancellation of claims 4 and 28.

Claims 11, 35, 38, and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 1 above, and further in view of Iyengar et al (U.S. 6,360,205; hereinafter “Iyengar”).

¹⁰ Office Action at pg. 9, ll.10-14.

¹¹ Gardener at ¶ 174.

Claims 12 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 1 above, and further in view of Harris et al (U.S. Publication Number 2002/0108109; hereinafter “Harris”).

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 1 above, and further in view of Lynch et al (U.S. 6,119,094; hereinafter “Lynch”).

Claim 37 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 25 above, and further in view of Webber et al (U.S. 5,021,953; hereinafter “Webber”).

Claims 40 and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flake in view of Gardener and Hollatz as applied to claim 1 above, and further in view of Buchanan (U.S. 6,009,408).

Each of claims 11, 12, 16, 17, 35-38, 40, 41 and 44 depend either directly or indirectly from claims 1, 14 or 25. Thus these dependent claims inherit the elements of the respective base claims, including elements discussed above related to determining availability of travel related services and querying a database to identify unused travel documents. As discussed above, Flake, Gardener and Hollatz fail to teach or suggest the above-mentioned elements.

In addition, Applicant has reviewed Bull, Iyengar, Harris, Lynch, Webber, and Buchanan and can find no teaching or suggestion of determining the availability of travel related services and querying a database to identify unused travel documents. As a result, the combination of Flake, Gardener, and Hollatz with any of reviewed Bull, Iyengar, Harris, Lynch, Webber, and Buchanan does not teach or suggest each and every element of claims 11, 12, 16, 17, 35-38, 40, 41 and 44. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 11, 12, 16, 17, 35-38, 40, 41, and 44.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6904 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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